

REMARKS

This responds to the Office Action dated October 10, 2006.

Claims 1-5, 10, 12-21, 23, 28 and 29 are amended, claim 8 is canceled, and no claims are added. Thus, claims 1-7 and 9-30 are now pending in this application.

The Office Action states, at page 5, lines 11-14, that “Applicant’s amendment necessitated the new ground(s) of rejection presented in this Office action,” and the Office Action made the rejection final. Applicant respectfully traverses, and points out that no new grounds of rejection were presented in this action.

§102 Rejection of the Claims

Claims 1, 2, 4, 11, 12, 15, 16 and 18 were rejected under 35 U.S.C. § 102(b) as being clearly anticipated by Barreras (U.S. Patent No. 5,807,397). Applicant respectfully traverses.

In rejecting the claims, the Office Action relies on Barreras for “a battery powered controller unit 20 that has a battery 70 and an inductive coil 82.” However, Barreras relates to an inductor coil 82 that provides RF coupled power to receiver coil 30 in an implanted stimulator 10 (paragraph 11, lines 15-24). Applicant can find no mention or teaching in Barreras that inductor coil 82 is configured to communicate with an inductive coil of the implanted device using inductive telemetry, as recited in the claims.

However, Applicant has amended the claims to further clarify telemetry data communication to facilitate prosecution. Support for the amendments to independent claims 1, 12, 15 and 18 (and dependent claims 2-5, 10, 13, 14, 16, 17, 19-21, 23, and 29) is provided at least at page 4, lines 15-29 of the specification. The amendments clarify the distinction between Barreras (where power is transferred from the inductive coil of a handheld device to the implanted device) and the present subject matter (where data is communicated between telemetry coils of a handheld device and an implanted device).

With respect to amended claim 1, Applicant is unable to find, among other things in the cited portion of Barreras, a handheld device including a battery powered telemetry coil controlled by the controller and configured to communicate data with a telemetry coil of the implanted device using inductive telemetry, as recited in amended claim 1. Claims 2, 4 and 11

depend, either directly or indirectly, on claim 1 and are believed to in condition for allowance at least for the reasons provided with respect to claim 1.

With respect to amended claim 12, Applicant is unable to find, among other things in the cited portion of Barreras, a circuit for a wireless handheld device including a telemetry coil driven by the first battery voltage source and controllable by the controller to communicate data with a second device using inductive telemetry, as recited in amended claim 12.

With respect to amended claim 15, Applicant is unable to find, among other things in the cited portion of Barreras, a method of powering a handheld device including activating the telemetry coil to facilitate inductive telemetry for the communication of data between the handheld device and the second device, as recited in amended claim 15. Claim 16 depends on claim 15 and is believed to in condition for allowance at least for the reasons provided with respect to claim 15.

With respect to amended claim 18, Applicant is unable to find, among other things in the cited portion of Barreras, a method of powering a handheld device including communicating data with an implanted device using inductive telemetry, as recited in amended claim 18.

Reconsideration and allowance of claims 1, 2, 4, 11, 12, 15, 16 and 18 are respectfully requested.

§103 Rejection of the Claims

Claims 2-10, 13, 14, 17 and 19-30 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Barreras in view of Fayram (U.S. Patent No. 6,552,511).

Applicant respectfully asserts that the combination of Barreras and Fayram fail to show subject matter recited in independent claims 1, 12, 15 and 18, and thus also fail to show the subject matter recited in claims 2-10, 13, 14 and 19-27. Specifically, Barreras fails to show telemetry communication of data or multiple batteries or a switched battery in a handheld device. Fayram discloses two batteries connected in parallel, thereby always having the same potential.

Applicant has amended claim 28 to facilitate prosecution. Support for the amendment is provided at least at page 4, lines 15-29 of the specification. Applicant is unable to find in the cited portion of the cited references, among other things, a handheld device including a battery powered telemetry coil controlled by the controller and configured to communicate data with a

telemetry coil of the implanted device using inductive telemetry, as recited in amended claim 28. Claims 29 and 30 depend, either directly or indirectly, on claim 28 and are believed to in condition for allowance at least for the reasons provided with respect to claim 28.

Applicant respectfully traverses the rejection with respect to claim 7, as there is no teaching or suggestion that a silver oxide battery would be an obvious substitute for a silver-zinc chemistry in this type of battery application. Applicant also respectfully traverses the rejection with respect to claim 10, as impedance matching is not a mentioned benefit of Barreras or Fayram. Claims 13, 17 and 20 have been amended to further clarify the recited subject matter. Support for the amendments is provided at least at page 7, lines 6-19 of the specification. Applicant is unable to find in the cited portion of the cited references, among other things, a series combination of multiple batteries for powering a handheld device, as recited.

Additionally, Applicant respectfully asserts that there is no objective evidence of a suggestion to combine the references found in the references. Applicant is unable to find a suggestion in either Barreras or Fayram to combine the implantable stimulator with a capacitor replenishable from an external device of Barreras with the hybrid battery network for an implantable device of Fayram. Further, Barreras teaches away from Fayram. Specifically, one of skill in the art would not be motivated to use a second battery to replenish a stimulating circuit (as in Fayram) where the stimulating circuit is replenished from a remote external device (as in Barreras). In addition, Fayram is not within the art of wireless handheld devices, as it deals specifically with battery networks for implantable cardioverters/defibrillators.

Applicant respectfully requests withdrawal of the rejection, and reconsideration and allowance of claims 2-10, 13, 14, 17 and 19-30.

CONCLUSION

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney (715) 824-5144 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

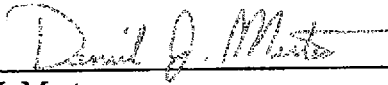
Respectfully submitted,

WILLIAM R. MASS ET AL.

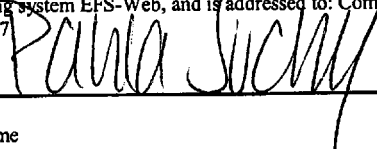
By their Representatives,

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By / 
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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 10 day of January 2007.


Name


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